

EXHIBIT G

Bathae :: Dunne :: LLP

Brian Dunne
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September 10, 2021
By E-mail

Molly Jennings
Wilmer Cutler Pickering Hale & Dorr LLP
1875 Pennsylvania Avenue, NW
Washington, DC 20006

Re: *Klein v. Facebook, Inc.*, Case No. 5:20-cv-08570-LHK

Molly:

I write in response to Facebook’s correspondence dated August 20, 2021 (from Molly Jennings to Plaintiffs’ counsel regarding clawback of documents with Bates nos. FB_PALM_CLAWBACK004); August 17, 2021 (from Molly Jennings to Plaintiffs’ counsel regarding clawback of documents with Bates nos. FB_PALM_CLAWBACK003); July 13, 2021 (from Nicole Callan to Plaintiffs’ counsel regarding clawback of documents with Bates nos. FB_PALM_CLAWBACK002); and June 2, 2021 (from Sonal Mehta to Plaintiffs’ counsel regarding clawback of documents with Bates nos. FB_PALM_CLAWBACK001). In these letters, Facebook purported to claw back information that Facebook previously produced to the Federal Trade Commission (and perhaps other government agencies) pursuant to a civil investigative demand. Facebook’s asserted basis for claiming attorney-client privilege now over information it produced to the FTC several years ago is that Facebook’s past production was allegedly “inadvertent”—even though Facebook never made this assertion years ago, when the information Facebook now claims is attorney-client privileged was voluntarily produced to the FTC.

Facebook’s clawback position regarding documents produced to the FTC is contrary to Ninth Circuit law. In *In re Pacific Pictures Corp.*, 679 F.3d 1121 (9th Cir. 2012), the Ninth Circuit “decide[d] whether a party waives attorney-client privilege forever by voluntarily disclosing privileged documents to the federal government.” *Id.* at 1124. The court’s answer was yes. *Id.* at 1126-30. This ends the inquiry for the documents Facebook produced to the FTC—including, based on our understanding of your prior representations, every purported clawback to date in this matter. Please confirm that you will cease claiming attorney-client privilege in relation to information previously produced to the FTC.

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Please also immediately produce (or re-produce) to Plaintiffs all documents clawed back, withheld, or redacted by Facebook beyond the exact scope and form in which Facebook produced those documents to the FTC.

We look forward to your prompt response.

Sincerely,

A handwritten signature in blue ink, appearing to read "B. Dunne", is positioned above the printed name.

Brian J. Dunne

cc: all counsel

Attachment